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A Cognitive Analysis of Crime: Taking Bo Xilai's Bribery Crime as an Example

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Abstract

In the judgment of the first instance for Bo Xilai's case, the space-builder "The court herein believes..." activates a conceptual integration network of criminal judgment, which involves four mental spaces: two input spaces, the generic space and the blended space. Its cognitive outcome is the blended space, in which the core content is: Bo Xilai is convicted of bribery and sentenced to life imprisonment as well as life deprivation of political rights and confiscation of all personal property. The cognitive analysis of this conceptual integration network justifies that the defendant's act constitutes a bribery crime.

Key words: Bribery crime; Frame; Mental space; Conceptual blending

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INTRODUCTION

The Intermediate People's Court of Jinan rules that the Bo Xilai's acts constitute crimes of bribery, embezzlement and power abuse, which should receive combined punishment for several crimes, "sentenced Bo Xilai to life imprisonment as well as life deprivation of political rights and confiscation of all personal property".¹ Meanwhile,

Bo denied the bribery charge in court, arguing that he had no knowledge of what his wife and son had done, there was no special relationship between him and the bribers and he had never used his power to help the bribers.² The following is a cognitive analysis of Bo's bribery crime charged in the judgment of the first instance by the Intermediate People's Court of Jinan.

1. CONCEPTUAL INTEGRATION NETWORK OF CRIMINAL JUDGMENT ACTIVATED BY "THE COURT HEREIN BELIEVES..."

The court herein *believes* that the defendant's act has constituted the crime of bribery with the justification of the facts that Bo Xilai as a civil servant, took advantage of his position to seek benefits for others, directly receiving bribes from Tang Xiaolin, not only fully knew his family members had accepted Xu Ming's bribes, but also approved of what they had done...³

From the perspective of cognitive linguistics, "The court herein *believes*..." is a space-builder (Zhang, 2010, pp.33-39), which activates a network of conceptual integration for bribery criminal judgment, as illustrated by Figure 1.

Criminal judgment is the conclusion made by the court on the basis of criminal law and testified facts and evidences about whether the accused has committed a crime and to be penalized or not, as well as what the crime and penalty should be. Its logical structure is a syllogism, whose components are the major premise (legal rules), minor premise (facts of the case) and the conclusion of the judgment. From the perspective of cognition, the judgment conclusion is the outcome of conceptual blending, which has been compressed into being by the

¹The criminal judgment of the first instance for Bo's case by the Intermediate People's Court of Jinan (2013), China.

²wqcyx.zfwt.com

³The criminal judgment of the first instance for Bo's case by the Intermediate People's Court of Jinan (2013), China.

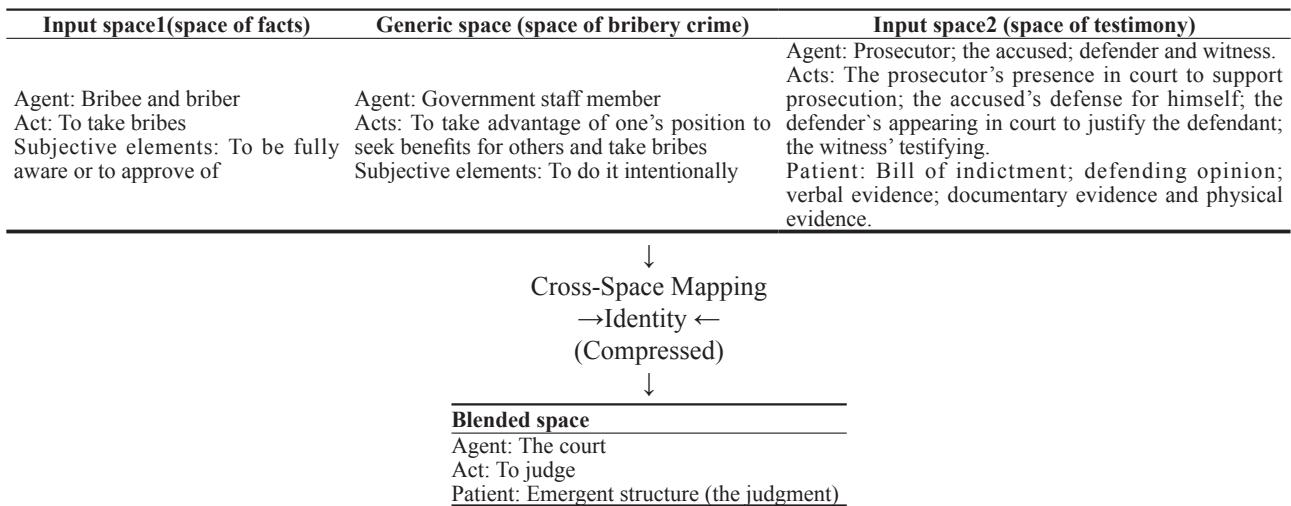


Figure 1
Conceptual Integration Network of Criminal Judgment Activated by “The Court Herein Believes...”

Space of Major Premise and the Space of Minor Premise. (Zhang, 2010, pp.33-39) In Figure1, Generic Space is the Space of Major Premise while Input Space 1 and 2 are included in the Space of Minor Premise, and the emergent structure of the blended space is the conclusion of the judgment. Abstract structures shared by Input Space 1 and 2, which form the general structures, are in Generic Space. These general structures and the particular structures selectively projected by the two input spaces as well as the emergent structure newly established by Blended Space itself through “elaboration” are all in Blended Space. (Li, 2008, p.184) As far as Figure1 is concerned, the abstract structure shared by both Input Space1 and 2—role of identity “Government staff member” is in Generic Space. In Input Space2, the prosecutor is lawfully responsible to prove that the accused is staff member of the Chinese government, or the charged bribery crime is groundless in this case. The particular structures selectively projected into Blended Space by Input Space1 are the bribers (Tang Xiaolin and Xu Ming) and their bribes. In Input Space2, the particular structures are as follows: Bill of indictment; defending opinion; verbal evidence; documentary evidence and physical evidence, etc.. Input Space1 has the elements of bribee, briber and bribes. In Input Space2, however, the bribee has become the accused while the briber and the bribes have respectively been changed into witness and physical evidence. Generic Space has the following abstract concepts: Government staff member; to take advantage of one's position; to seek benefits for others and receive bribes, etc.. There is a cross-space mapping between Bo Xilai and Tang Xiaolin & Xu Ming, between the bribee's identity as government staff member and the briber's role as witness, as well as between the prosecutor's indictment and the defender's opinion etc.. Elements of the input spaces enter Blended Space through selective projection, such as the bribee as a government staff member, most of the Bill of indictment, some of the defending opinion and the verbal evidence. However, most

of the accused's self-defense and the defender's opinion have failed to be projected into Blended Space. The emerging structure of the blended space from the process of “composition” is a debate on the problem of being guilty or not between the prosecution and the defense as well as a confrontation in court between the defendant and the witnesses. Meanwhile, the structure emerged from the process of “completion” is a face-to-face debate between the two sides, who disagreed sharply with each other. When in court, the defendant Bo Xilai said, “Tang Xiaolin is a cheater, he is always accusing others irresponsibly”, “Gu Kailai's verbal evidence is very ridiculous. She compared herself to Jingke (a famous assassinator in Qin Dynasty of ancient China) after she committed a murder, she is mad”. Besides, Bo also considered Wang Lijun's verbal evidence to be bullshit. In response to this, the prosecutor pointed out clearly that Bo was attempting to reduce the reliability of the verbal evidence by defaming the witness' moral quality. The judge interrupted Bo timely when he denounced the prosecutors for degrading his family reputation. This frame of confrontation in court enriches the blended space in which a debating scene of ask-answer-refute begins to take shape consequently. The process of elaboration is manifested by the affirmation of the Bo's bribery crime in the written criminal judgment by Jinan's Intermediate People's Court (2013).

2. THE ELABORATING ANALYSIS OF WHY THE ACCUSED IS CHARGED WITH BRIBERY CRIME

According to Fauconnier & Tunner, the process of elaboration is considered to be operating in a highly dynamic mode through “modeling” or “running”. Events recognized and construed in the blended space are psychologically showing themselves up on by one, whose correctness and consistency are continuously checked

just like computer program.(Ungerer & Schmid, 2006) The primary events concerning Bo's bribery crime are as follows: From 2000 to 2012, Bo Xilai alone, or with his wife Gu Kailai and his son Bo Guagua, took bribes from Tang Xiaolin and Xu Ming, which is worth an amount of ¥2179000.0587.⁴ These construed bribery events are also the main content of Input Space 1(Space of Facts), whose authenticity needs to be verified in Input Space 2 (Space of Testimony). The operation of the whole integration is led by the court and embodied in the court judgment:

- 1) The judgment gives first the listed basic concepts of the input spaces: Prosecutor; the accused and his defender.
- 2) Then the general structures in the Generic Space: Bo's crimes charged by the prosecutor, which refers to crimes of bribery, embezzlement and power abuse.
- 3) Bo's self-defense and his defender's opinion against the charges.
- 4) Verified facts of Bo's taking bribes.
- 5) Bo Xilai took advantage of his position to seek benefits for Dalian International Company and Tang Xiaolin and took bribes from Tang, which is worth an amount of ¥1,109,446.
- 6) Bo Xilai took advantage of his position to seek benefits for Shi De Group Company, fully aware and willingly approving of Bogu Kailai and Bo Guagua having taken bribes from Xu Ming, which is worth an amount of ¥19337930.11.
- 7) The above facts have been verified by the following evidences affirmed by the court herein through presenting and questioning of evidence in court. (omitted)
- 8) Bo's crimes of embezzlement and power abuse. (omitted)
- 9) Based on the facts and evidences of this case, the court herein judges as follows in response to the accused's self-defense and his defender's opinion. (omitted)

Here is the court ruling: The defendant Bo Xilai committed bribery crime and was sentenced to life imprisonment as well as life deprivation of political rights and confiscation of all personal property; Bo committed crime of embezzlement and should receive a combined punishment which is 15-year imprisonment and confiscation of personal property worth an amount of ¥1 million; Bo committed crime of power abuse and should receive 7-year imprisonment; the court decides to sentence Bo Xilai to life imprisonment as well as life deprivation of political rights and confiscation of all personal property. (The following is omitted)

According to Criminal Law of China, bribery crime refers to the act that government staff member takes advantage of his position to seek benefits for others and solicit or take bribes. Its agent is government staff member while the bribes include the solicited or received

properties through acts of bribery. In case of soliciting property, the accused shall be convicted of bribery crime as long as he has taken advantage of his position even if he has never sought benefits for others. Meanwhile, those taking bribes would be convicted only under the condition of seeking benefits for others. Such kind of act is done intentionally and advantages of one's position has been used. (Zhang, 2011, pp.1064-1071) The Generic Space in Figure1 consists of the above information.

In the Space of Facts, the prosecutor accuses Bo of having committed the following:

1) From the year of 2000 to 2002, at the request of Tang Xiaolin, who was then the general manager of Dalian International Company, the accused Bo Xilai took advantage of his government posts as mayor and CCP head of Dalian city as well as governor of Liaoning Province to help Tang with developing the local land owned by the liaison office of Dalian city in Shenzhen and applying for quota of imported motor vehicle. From the second half of 2002 to latter half of 2005, Bo received Tang's money on three different occasions, which is worth an amount of ¥1109446.

2) From the year of 1999 to 2006, at the request of Xu Ming, who was then the president of Dalian Shi De Group Company, the accused Bo Xilai took advantage of his government posts as mayor and CCP head of Dalian city as well as governor of Liaoning Province and China's Minister of Commerce to help Xu's company with the acquiring of Dalian Wanda Football Club, the project of fixed-point flying ball, the applying of petrochemical project in Shuangdao Bay of Dalian, and being listed for record by Ministry of Commerce of China as a non-state-run Imp. & Exp. Trading Company to buy and sell crude and refined oil. From the year of 2001 to 2012, Bo Xilai received Xu's bribes on several occasions by the hand of Bo's wife Bogu Kailai and Bo's son Bo Guagua, which is worth an amount of ¥2,0681,141.

In the Space of Testimony, the accused and his defender made the following justification:

1) What Bo Xilai has done for Tang Xiaolin, for which Bo was charged by the prosecutor, is an act of duty for Bo to support lawfully Dalian International Company. Bo did not know Tang got profits in this business, for Bo did not seek personal benefits for Tang himself. Similarly, the help and support Bo gave to the Shi De Group is a legal duty, which can stimulate the local economic development. Most importantly, Bo did not make a deal with Tang and Xu at that time that he would receive benefits after he had helped them. Therefore, it is groundless to determine that Bo sought benefits for others in order to take bribes.

2) Tang's verbal evidence that he gave Bo money three times is contradictory to other evidences, so it should not become established evidence. In addition, Bo denied having received money from Tang. Therefore, this bribery charge cannot be determined.

3) The verbal evidences of Xu Ming and Bogu Kailai about their watching the PPT of a villa in France with Bo Xilai are contradictory to each other; Xu's verbal evidence that in the Ministry of Commerce Bo asked Xu to keep secrete his purchase of a villa for Bo's family is an isolated evidence, and no evidence in the document file can prove Xu's possession of a parking permit by the Ministry of Commerce. Furthermore, Bo denied all

⁴The criminal judgment of the first instance for Bo's case by the Intermediate People's Court of Jinan (2013), China.

these events in court and knew nothing about the details of the villa, such as its operation for purchase, property right and so on, so it cannot be determined that Bo was informed that Bogu Kailai had received Xu's fund in order to buy the Saint George villa".

4) "Bo Xilai knew nothing about the facts that Xu Ming had paid air fair, accommodation fee and trip charges as well as bills of an electric car and credit cards for Bo's wife and son."⁵

In the Blended Space, the judge confirmed the criminal acts charged in the Bill of indictment through presentation and cross-examination of proof in court. Based on the facts and evidences of this case, the judge also made his own judgment in response to the defending opinions of the accused and his defender.

1) Based on the investigation and the verified evidences in the file of this case, the defendant Bo Xilai took advantage of his position to help Tang Xiaolin and Xu Ming, and took their bribes. According to China's criminal law, when government staff member takes advantage of his position to seek benefits for others and take their bribes, he is suspected of committing bribery crime. As long as the suspect has made the power-for-money deal, he is surely guilty of bribery crime no matter the means he sought benefits for others is legal or not, the benefits he sought for others are illegitimate or not, and regardless of the suspect sought benefits for the entrusting person himself or for his affiliated unit, and no matter he had intended to take bribes or not while seeking benefits for others. Therefore, nothing can change the identification of Bo's taking advantage of his position and seeking benefits for others, no matter his act of helping others is rightful or not, or he knew Tang Xiaolin made personal profits or not, and both sides agreed on taking bribes or not while seeking benefits. What the accused and his defender have argued for this part does not stand, so the court herein has decided not to accept it.

2) Based on the investigation and the verified Tang Xiaolin's verbal and written evidences as well as his testimony in the form of video and audio recording, Tang had asked and got Bo's support for developing the local land owned by the liaison office of Dalian city in Shenzhen and applying for quota of imported motor vehicle. To thank Bo, Tang gave him money three times, which was verified by other evidences of this case as well as Tang's stable verbal evidence. The witnesses, Ji Wei and Zhang Wensheng, testified that Tang gave Bo \$130,000 on two different occasions in the second half of 2002 and 2005. Besides, the witness Song Zhenjun also testified that Tang told him to pay Bo ¥50,000 from non-account capital of the Dalian International Company in June 2004, which was verified by the page of the account book for non-account capital. The fact that Bo had received Tang's money is well established despite of the differences between Tang's verbal evidence and other evidences in some details. Bo's written account and handwritten confession admitted that he had received Tang's money three times, which can mutually be proved by Tang's verbal evidence. Although Bo retracted his confession in court, denying his taking Tang's bribes, Bo's defense for himself is contradictory to other evidences of the case and therefore not convincing enough to be accepted. To sum up, the facts to determine Bo's having received Tang's money three times have been clearly verified while the evidences of this case

are reliable and sufficient. What the accused and his defender have argued for this part does not stand, so the court herein has decided not to accept it.

3) Based on the investigation and the verified Bogu Kailai's verbal and written evidences, her testimony in the form of video and audio recording as well as Xu Ming's verbal evidence in court, Bo Xilai did watch the PPT of the villa as a bribe in 2002 together with Gu Kailai and Xu Ming at Bo's home in Shenyang. Bo's written account and handwritten confession admitted that he had done it and the team handling this case had found the PPT of Saint George Villa from Gu Kailai's computer. All this information proved that Bo Xilai did watch the PPT together with his wife and Xu Ming. Moreover, during the watching Gu Kailai clearly told Bo Xilai that the purchase of this villa was funded by Xu Ming, which had been mutually proved by the testimony of these two witnesses. Therefore, it is well evidenced that Bo Xilai knew his wife's having taken Xu's money to buy Saint George Villa. Whether Bo Xilai was aware of the operation for purchase, property right and so on did not make any difference to the confirmation of the fact that he was an insider in this matter.

4) Besides, Xu Ming testified that Bo Xilai had asked him to keep secret the purchase of the villa in the conversation in 2004 at the Ministry of Commerce, which proved that Bo knew the purchase of this villa was funded by Xu Ming. Though the team handling this case had not found Xu's parking permit to pass in and out of the Ministry of Commerce, the security department of the ministry explained that it could not ensure a complete registration of the existing parking permits and that the minister's guest could drive in and out of the Ministry of Commerce after confirmed by the minister himself. Therefore, the authenticity of Xu's testimony should not be ruled out just because Xu Ming did not have a parking permit to pass in and out of the ministry in 2004. What the accused and his defender have argued for this part does not stand, so the court herein has decided not to accept it.

5) "Based on the investigation and the verified Gu Kailai's verbal and written evidences, her testimony in the form of video and audio recording, she had told Bo Xilai that Xu Ming had taken good care of herself and Bo Guagua, helping him with study abroad and paying some bills for Bo's family and Bo Guagua. Bo's written account and handwritten confession acknowledged this, which proved that the accused not only knew Xu's funding Bo Guagua study abroad, but also definitely perceived the nature of his power-for-money deal. Xu Ming testified that in his conversation with Bo in 2004 at the Ministry of Commerce, Bo said to Xu that his wife was always mentioning Xu's good care for herself as well as Xu's great help with Bo Guagua's study abroad. Besides, Gu Kailai's testimony and Bo Xilai's handwritten confession proved that the accused did know something about the electric vehicle bought by Xu Ming as a bribe for Bo's family. To sum up, it is well evidenced that Bo Xilai knew Xu's paying expenses for Gu Kailai and Bo Guagua as well as giving them bribes. It makes no difference to the confirmation of the related facts whether the accused was aware of the actual amount of the bribes and mode of payment or not. What the accused and his defender have argued for this part does not stand, so the court herein has decided not to accept it.

It should be noted here that the accused acknowledged his awareness of his wife Gu Kailai's taking bribes in his written account and handwritten confession. However, Bo Xilai denied his knowledge of it in court, claiming that "The two written accounts were unwillingly done under

⁵The criminal judgment of the first instance for Bo's case by the Intermediate People's Court of Jinan. (2013). China.

the unjust pressure and induction from the personnel handling this case, so these two materials, together with the followed confessions are illegal evidences in accordance with Article 54, Criminal Procedure Law of the PRC and they should be ruled out. Besides, these materials are evidences "collected by means of threatening, inducing, deceiving and other unlawful methods" in accordance with Article 50, Criminal Procedure Law of the PRC. In response to this, the court judged that "In accordance with the related articles of Criminal Procedure Law of the PRC and the judicial interpretation about the appliance of Criminal Procedure Law of the PRC by the Supreme Court, confessions unwillingly made by the defendant because of suffering from corporal or disguised corporal punishment or other punishment which causes the accused feel fleshly or spiritually intense pain are the illegally-collected evidences stipulated in Article 54, Criminal Procedure Law of the PRC, so they should be ruled out according to law. However, the pressure claimed by Bo Xilai does not belong to illegal methods of extorting confessions by torture in the above-mentioned stipulations, so it is legally groundless to rule them out."⁶

It is considered to be a big flaw in proof from the field of law that "A written confession" and "Statement of confession" by the accused during the investigation of the Discipline Inspection Commission had been used as accusation evidence in this case.⁷ The reason is that the Discipline Inspection Commission of the CCP does not have the power of criminal investigation in accordance with Constitution of China and Criminal Procedure Law of the PRC. Materials collected by this commission cannot be used as evidences in court, but only as reference which has no effect of criminal evidence according to Criminal Procedure Law of the PRC.

From the perspective of cognitive linguistics, however, the defendant's handwritten materials during the investigation of the Discipline Inspection Commission is cognitive text which is his self-cognition of the case facts. If none of extorting confessions by torture exists, the cognitive text is Bo's declaration of real intention. Here is the excerpted part of Bo's handwritten materials.

1) I remember once that I saw Xu Ming chatting with Gu Kailai. Xu mentioned a house in Nice of France, and suggested we have a look at it if chance permits as the beautiful house also enjoys a scenic environment. I did not care much about it at that time, saying carelessly that let's go there to have a look when chance permits". "In the vagueness of my memory, Gu Kailai and Xu Ming mentioned this house to me at my home in the city of Shenyang at a time I held the post of governor of Liaoning Province. It seemed that I came across their discussing and watching the PPT of the villa as soon as I reached home. I fail to remember mentioning the word "purchase" or not due to long time, but it is true that I did not stop it because of the lack of alertness and carefulness. Now I was told that this house

had been in the ownership of my family and my wife received other's money in order to buy it, and that she talked to me I should be responsible for all this as a government official and as head of my family, no matter how much I have known and whether I have remembered it or not. I know nothing about the purchase of the house in Nice, its process of operation, its size and value. Neither did I participate in this matter. I am willing to respect the investigation conclusion analyzed and confirmed by the procuratorial agency and bear proper legal liability.

2) I have offered much help and support to the development of Shi De Group Company in different ways, so at the same time Xu Ming became a frequent visitor of my family". "Bo Guagua is the dearest person we care most because he is our only child and studies abroad. Xu Ming knew it so well that he usually talked with Gu Kailai about things concerning Bo Guagua. In consequence, he became the key financial supporter of Bo Guagua's daily life abroad, for which Gu Kailai praised Xu as "a generous friend". Xu also promised me that he would take good care of it and let me feel relieved. I believe deeply what he said because we have been friends for years and I used to help him a lot substantially. Besides, he is a capable man who can handle this matter easily, so I relieve myself from things concerning Bo Guagua, whose daily life was considerably looked after by Xu. The funding details and total amount of money can be determined by the investigation of the Discipline Inspection Commission. Once Xu bought us an electric vehicle and I had a try to drive it. It is actually a special way to make a deal for me to help Xu's business develop quickly while he took good care of my son, funding greatly Bo Guagua's studies abroad as well as my wife. The reason for Xu to look after my son so considerably and generously, I think, is that I have given him enormous support at critical stages of his enterprise, some of which was exceptionally great.

In accordance with the definition of bribery crime in China's Criminal Law, the above two paragraphs of linguistic data can be expressed by Figure 2.

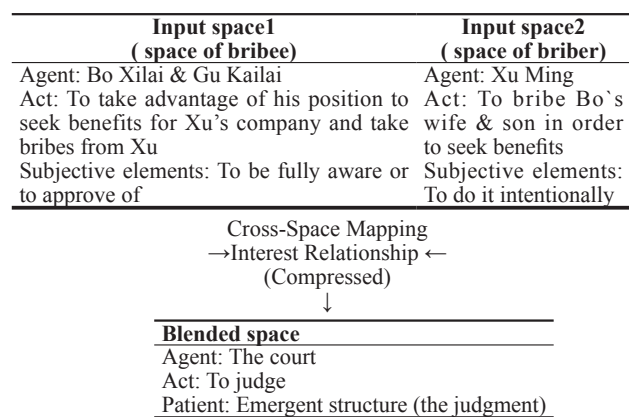


Figure 2
Conceptual Integration Network of Bo's Space of Bribery

In Bo's space of bribery, the briber Xu Ming "became the key financial supporter of Bo Guagua's daily life abroad, funding greatly Bo Guagua's studies abroad" for the purpose of developing his enterprise quickly. The bribee heard that "my wife received other's money to purchase the house in France". Without these bribes, would the accused as then a high ranking official have offered much help and support to the development of

⁶ The criminal judgment of the first instance for Bo's case by the Intermediate People's Court of Jinan (2013), China.

⁷ wqcyx.zfwlxt.com(2013)

Shi De Group Company in different ways? Would Bo have given Xu enormous support at critical stages of Xu's enterprise, some of which was exceptionally great? Of course not! Therefore, even the defendant himself acknowledged that "it is actually a special way to make a power-for-money deal"!

Thus it can be seen that the above handwritten confession is an essential part of chain of evidence in this case, which indirectly proves that the accused "knew perfectly well and approved of his family members taking bribes from Xu Ming". As for the problem that the bribes from Xu Ming". As for the problem that the possessor in name of the villa in France is inconsistent with the actual holder, the real owner is Bo's wife Gu kailai according to the chain of evidence in this case.

CONCLUSION

From the above cognitive analysis of the conceptual integration network for bribery criminal judgment as well as Bo's mental space of bribery, it has been justified that the defendant Bo Xilai took advantage of his position to help Tang Xiaolin and Xu Ming and take their bribes by Bo himself or by Bo's family members,

so Bo's conviction for bribery is both the legal and cognitive outcome of the court judgment. Bo Xilai used to have a notorious reputation of trampling on rule of law when in office, treating law with contempt in the city of Chongqing. But now Bo was convicted of three crimes by the court, sentenced to life imprisonment as well as life deprivation of political rights and confiscation of all personal property, which is so paradoxical for a "pioneer in fighting against crimes"!

REFERENCES

- Zhang, C. Q. (2010). *A cognitive analysis of legal reference* (pp.33-39). China Legal Science.
- Li, F. Y.(2008). *An introduction to cognitive linguistics* (p.184). Beijing: Beijing University Press.
- Ungerer, F., & Schmid, H. J. (2006). *Translation of an introduction to cognitive linguistics-second edition* (p.294). Shanghai: Fudan University Press.
- Zhang, M. K. (2011). *Criminal law-fourth edition* (pp.1064-1071). Beijing: Law Press.
- Fauconnier, G., & Turner, M. (2002). *The way we think: Conceptual blending and the mind's hidden complexities*. New York: Basic Books.